

**REMARKS**

**INTRODUCTION:**

In accordance with the foregoing, the specification and the title have been amended to improved form and to address the Examiner's objections, claim 40 has been canceled without prejudice or disclaimer, and claims 1, 3, 4, 7-9, 11, 14, 16, 18, 24, 30, 33-36, 39, 44, 46, 48, 50 and 51 have been amended.

No new matter is being presented, and approval and entry of the foregoing amendments are respectfully requested.

Claims 1-39 and 41-51 are pending and under consideration. Reconsideration is requested.

**CHANGES TO THE SPECIFICATION:**

The specification has been reviewed in response to this Office Action. Changes have been made to the specification only to place it in preferred and better U.S. form for issuance and to resolve the Examiner's objections raised in the Office Action. No new matter has been added.

**OBJECTION TO THE TITLE:**

In the Office Action at page 2, the title was objected to as not being descriptive. In view of the proposed amended title set forth above, the outstanding objection to the title should be resolved.

**OBJECTION TO THE CLAIMS:**

In the Office Action at page 3, claims 33, 35, and 36 were objected to for reasons set forth therein. In view of the proposed amendments to claims 33, 35, and 36, the outstanding objection should be resolved.

**REJECTION UNDER 35 U.S.C. §102:**

In the Office Action at pages 4-8, the Examiner rejects claims 1-5, 9-13, 16-20, 30, 31, 39-42, and 44-49 under 35 U.S.C. §102 in view of Ema et al. (U.S. Patent No. 6,343,055). This rejection is respectfully traversed and reconsideration is requested.

By way of review, Ema et al. suggests, among other features, a recording medium 200 in which an audio zone includes cells 220. Each cell 220 includes only audio packs 230 and/or includes audio packs 230 and a real time information (RTI) pack 231 as shown in FIG. 1. Each RTI pack 231 includes text information, tempo information 53 and beat information 54

associated with audio frames 55 as shown in FIG. 7. As shown in FIG. 1, each RTI pack 231 is disposed only in the cells 220 where the audio packs 230 have associated RTI information. Where no RTI information is associated with the audio packs 230, the cell 220 does not include the RTI pack 231.

Further, where the cell 220 includes RTI information, Ema et al. suggests that the RTI pack 231 is disposed relative to the associated audio packs 230, and therefore is disposed in different locations in each cell 220. (Col. 6, lines 33-41, col. 7, lines 9-24, col. 11, lines 1-6; FIG. 6). However, there is no suggestion that a position of the RTI pack 231 is a predetermined position relative to a beginning of the cell 220 such that each cell 220 includes the RTI pack 231 in a same position. As such, while Ema et al. suggests using the RTI packs 231 in the cells 220 only where the RTI information is associated with the audio frames 55, there is no suggestion that a position of the RTI packs 231 is uniform within the cells 220.

In contrast, claim 1 recites, among other features, that "the predetermined position being a same position in each of the recording units relative to a beginning of the recording unit and is independent of whether the recording unit including the data pack also includes the additional data." As such, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claim 1.

For at least similar reasons, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claims 9, 16, and 30.

Additionally, on page 8 of the Office Action, the Examiner rejects claim 40 by asserting that at least some of the RTI packs 231 have no beat information recorded in at least some portions 53, 54, 61, 62 as shown in FIG. 2. As a point of clarification, the features of claim 40 have been incorporated into claim 39.

Further, Ema et al. teaches using the RTI packs 231 in cells 220 where the information 53 and 54 is being associated with audio frames 55. There is no suggestion that the information 53, 54 is not included in one of the RTI packs 231 since, where no information 53, 54 is associated with particular frames 55, Ema et al. suggests not including an RTI pack 231. As shown in FIG. 1, some of the cells 220 include only audio packs 230, and others of the cells 220 include an RTI pack 231 associated with only some of the audio packs 230 as further shown in FIGs. 2 and 7. (Col. 10, line 66 to col. 11, line 6; steps S1 and S2 of FIG. 6). As such, while Ema et al. teaches including an RTI pack 231 where the audio frames 55 relate to RTI information, Ema et al. does not suggest that the RTI pack 231 is included even where no RTI information is included.

In contrast, claim 39 recites, among other features, that "ones of the RTI packs have no

information recorded therein." As such, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claim 39.

Similarly, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claim 3, 11, 18, 44, and 46.

For at least similar reasons, it is respectfully submitted that Ema et al. does not disclose or suggest, among other features, that the existence of the RTI packs 231 in the cells 220 is independent of the use the RTI information, whereas claim 1 recites, among other features, that "the predetermined position ... is independent of whether the recording unit including the data pack also includes the additional data." As such, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claim 1.

Similarly, it is respectfully submitted that Ema et al. does not disclose or suggest the invention recited in claim 16, 30, 48, and 51.

Claims 2, 4, 5, 10, 12, 13, 17, 19, 20, 31, 41, 42, 45, 47, and 49 are deemed patentable due at least to their depending from corresponding claims 1, 9, 16, 30, 39, 44, 46, and 48.

**REJECTION UNDER 35 U.S.C. §103:**

In the Office Action at pages 5-11, the Examiner rejects claims 6-8, 14, 15, 21-29, 32-38, 42, and 50 under 35 U.S.C. §103 in view of Ema et al. and Sawabe et al. (U.S. Patent No. 6,577,589). The rejection is respectfully traversed and reconsideration is requested.

The Examiner does not rely upon Sawabe et al. as curing the above noted deficiencies of Ema et al. as applied to claims 1, 9, 16, 30, and 39, from which claims 6-8, 14, 15, 21-23, 32, 33, and 42 correspondingly depend. As such, it is respectfully submitted that the combination does not disclose or suggest the invention as recited in claims 6-8, 14, 15, 21-23, 32, 33, and 42.

Further, for at least reasons similar to why Ema et al. does not disclose or suggest the invention recited in claim 1, it is respectfully submitted that Ema et al. does not disclose or suggest the features of claims 24, 34, and 50. Since the Examiner does not rely upon Sawabe et al. as curing the above noted deficiencies of Ema et al. as applied to claim 1, it is respectfully submitted that the combination does not disclose or suggest the invention of as recited in claims 24, 34, and 50.

Claims 25-29 and 35-38 are deemed patentable due at least to their depending from corresponding claims 24 and 34.

**CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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